



**NEW MEXICO  
ENVIRONMENT DEPARTMENT**



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**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**  
**RETURN RECEIPT NO: 7013 0600 0001 8698 6201**

Matthew V. Hairford, President  
Matador Production Company  
One Lincoln Centre  
5400 Lyndon B Johnson Freeway Ste 1500  
Dallas, Texas 75240

Re: Notice of Violation under the Clean Air Act – Matador Production Company, Multiple Facilities

Dear Mr. Hairford:

The New Mexico Environment Department (NMED) is issuing the enclosed Notice of Violation (NOV) to Matador Production Company and its affiliated parents and subsidiaries (collectively referred to as Matador). Matador is an oil and gas producer in Texas, Louisiana, and New Mexico. Matador Production Company is incorporated in the state of Texas and is registered to transact business in the state of New Mexico as a Foreign Profit Corporation. Matador's headquarters are located in Dallas, Texas.

NMSA § 74-2-12 gives NMED several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing a statutorily authorized penalty, or bringing a judicial civil action.

The NMED finds that Matador is violating provisions of the New Mexico State Implementation Plan (NM SIP), including New Mexico permitting requirements and the terms and conditions of the General Construction Permit for Oil and Gas Facilities.

We are offering Matador the opportunity to request a conference with NMED and EPA to discuss the violations identified in this NOV. A conference should be requested within ten (10) business days following receipt of this NOV. This conference will provide Matador a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. You may have counsel represent you at this conference.

The NMED contact in this matter is Shannon Duran, and she may be reached at (505) 476-4353, or [Shannon.duran@state.nm.us](mailto:Shannon.duran@state.nm.us) to request a conference. You may have your counsel contact Andrew Knight at (505) 222-9540, or [Andrew.Knight@state.nm.us](mailto:Andrew.Knight@state.nm.us).

Sincerely,



Liz Bisbey-Kuehn  
Bureau Chief  
Air Quality Bureau  
New Mexico Environment Department

cc: Steve Thompson, EPA Region 6  
Andrew Knight, NMED

Enclosure: Notice of Violation (NOV)

**NEW MEXICO ENVIRONMENT DEPARTMENT**

**IN THE MATTER OF:**

Matador Production Company )  
Dallas, Texas )                           **NOTICE OF VIOLATION**  
   )  
Proceedings Pursuant to )  
the Air Quality Control Act )  
NMSA § 74-2-12                             )

**NOTICE OF VIOLATION**

The New Mexico Environment Department (NMED) is sending this Notice of Violation (NOV) under NMSA § 74-2-12 and 12.1, to inform Matador Production Company and its affiliated parents and subsidiaries (collectively referred to as Matador) of violations set forth in detail in the paragraphs that follow.

The NMED alleges that Matador violated the requirements and prohibitions of the New Mexico State Implementation Plan (NM SIP), including New Mexico permitting requirements and the terms and conditions of the General Construction Permit for Oil and Gas Facilities at several oil and natural gas production facilities identified in this NOV that are located in Eddy County and Lea County, New Mexico.

The NMED is providing Matador with the opportunity to request a conference with us to discuss the violations alleged in the NOV. This conference will provide Matador with the chance to present information on the identified violations, any efforts it has undertaken to comply, and the steps it will take to prevent future violations. You may have legal counsel represent and accompany you at this conference.

**I.       Matador Production Company**

1.       Matador is an exploration and production company incorporated in the state of Texas and is registered to transact business as a Foreign Profit Corporation in the state of New Mexico. Matador's business includes the extraction and production of natural gas, and hydrocarbon liquids (e.g., oil and natural gas condensate) at facilities located in Southeast New Mexico, Texas and Louisiana.
2.       Matador's headquarters is located at 5400 Lyndon B Johnson Freeway, Ste 1500, Dallas, TX 75240.

3. Matador is the owner and operator of the oil and natural gas production facilities listed in TABLE 1, which identifies the Aerometric Information Retrieval System (AIRS) numbers and physical location coordinates for the oil and natural gas production facilities. The Physical Location is from the facility Notice of Intent (NOI) response letter issued by NMED or permit registration submitted to NMED, except for the Norris Thornton-1 Facility which was obtained from Google Earth. NA means “not applicable.” According to Matador personnel, the Norris Thornton-1 Facility was determined to not require a permit or a NOI to construct.

TABLE 1: FACILITY AIRS NO. AND PHYSICAL LOCATION

Facility Name	AIRS No.	Physical Location (latitude, longitude)	County of New Mexico
Anne Com 15 Facility	350151845	32.220835, -104.081051	Eddy County
B Banker Facility	350151729	32.265978, -104.083722	Eddy County
Charlie Sweeney Facility	350151722	32.270283, -104.13165	Eddy County
Coleman Facility	350157894	32.305275, -104.153286	Eddy County
Dr. K Facility	350151502	32.285164, -104.150497	Eddy County
Dr. Scrivner Facility	350151949	32.243353, -104.035319	Eddy County
Guitar 10 Facility	350151376	32.235989, -104.0678	Eddy County
Janie Conner Facility	350151987	32.221981, -104.050783	Eddy County
Mallon 27 Fed Com No1H Facility	350251331	32.62511, -103.541892	Lea County
Mallon 27 Fed Com No2H Facility	350251338	32.624965, -103.546	Lea County
Mallon 27 Fed Com No3H Facility	350251342	32.624851, -103.55015	Lea County
Miss Sue 202H Facility	350151922	32.323135, -104.155076	Eddy County
Norris Thornton-1 Facility	NA	32.285892, -104.155578	Eddy County
Stebbins 19 Fed Com No123H Facility	350151941	32.558089, -104.107114	Eddy County
Stebbins 20 Fed Facility	350151835	32.552709, -104.104494	Eddy County
Stebbins 20/19 Fed Facility	350151931	32.556444, -104.105333	Eddy County
Tiger 14 Facility	350151471	32.211386, -104.051158	Eddy County
Tom Matthews 223H Facility	350151904	32.230007, -104.085259	Eddy County
Tom Walters Facility	350151833	32.320328, -104.155195	Eddy County
Warren Facility	350151832	32.269429, -104.142851	Eddy County
Zach McCormick Fed Com 226H Facility	350151869	32.219875, -104.032647	Eddy County

4. On April 16-18, 2019, EPA inspector Christopher Williams, NMED inspector Journey Nolan, and New Mexico Oil Conservation Division (NMOCD) compliance officer Kerry Fortner inspected the facilities listed in Table 1.

5. The NMED's findings from the compliance investigation, including information gathered during the site inspections, are discussed in Section III (Factual Background) and Section IV (Violations).

## **II. Statutory and Regulatory Background**

6. The purpose of the CAA is to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population. CAA Section 101(b)(1), 42 U.S.C. § 7401(b)(1).

### **Clean Air Act NSPS 40 C.F.R. Part 60, Subpart OOOOa**

7. Section 111 of the CAA, 42 U.S.C. § 7411, authorizes the EPA to promulgate regulations establishing New Source Performance Standards (NSPS). Section 111(e) of the CAA, 42 U.S.C. § 7411(e), states that after the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.
8. In 2012, pursuant to its authority under Section 111(b)(1)(B) of the Act to review and, if appropriate, revise NSPS, the EPA published the final rule, "Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution," found at 40 C.F.R. Part 60, Subpart OOOO.
9. In 2013 and 2014, the EPA made amendments to the 2012 NSPS with respect to standards for storage vessels and other changes, which are found at 40 C.F.R. Part 60, Subpart OOOOa.<sup>1</sup>
10. Affected facilities that commence construction, modification or reconstruction after August 23, 2011, and on or before September 18, 2015, are subject to standards under 40 C.F.R., Part 60, Subpart OOOO. 40 C.F.R. § 60.5360. Affected facilities that commence construction, modification or reconstruction after September 18, 2015, are subject to standards under 40 C.F.R. Part 60, Subpart OOOOa. 40 C.F.R. § 60.5360a.
11. Among the "affected facilities" subject to NSPS Subpart OOOOa are "storage vessel affected facilities." 40 C.F.R. § 60.5365a(e). NSPS Subpart OOOOa specifies that a "storage vessel affected facility" is a single storage vessel with the potential for volatile organic compounds (VOC) emissions equal to or greater than 6 tons per year (tpy) as determined according to 40 C.F.R. § 60.5365a(e).

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<sup>1</sup> On June 3, 2016, the EPA published a final rule that established NSPS for pollutants including VOC emissions from the oil and natural gas sector. 81 Fed. Reg. 35,824 (Jun. 3, 2016). Following promulgation of the 2016 final rule, the EPA granted reconsideration of the fugitive emissions requirements at well sites and compressor stations, well-site pneumatic pump standards and the requirements for certification of closed vent systems by a professional engineer. 82 Fed. Reg. 25,730 (June 5, 2017); *see also* 83 Fed. Reg. 52,056 (Oct. 15, 2018) (proposing amendments and clarifications to address these issues and technical clarification issues).

12. NSPS Subpart OOOOa defines “storage vessel” as tank or other vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that is constructed primarily of non-earthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support. 40 C.F.R. § 60.5430a.

**NSPS Subpart OOOOa Emissions Determination of 40 C.F.R. § 60.5365a(e)**

13. NSPS Subpart OOOOa requires the owner or operator of an affected facility to perform an emissions determination for each new, modified or reconstructed storage vessel within 30 days after liquids first enter the storage vessel or within 30 days after startup of production of the well for vessels receiving liquids pursuant to the standards for well affected facilities. The emissions determination is the basis for determining if an affected facility is a storage vessel affected facility regulated under NSPS Subpart OOOOa. Owners or operators of storage vessels at an affected facility must calculate the potential for VOC emissions using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production. 40 C.F.R. § 60.5365a(e).
14. NSPS Subpart OOOOa provides that the emissions determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a federal, state, local or tribal authority. 40 C.F.R. § 60.5365a(e).
15. NSPS OOOOa states that for owners and operators performing the emissions determination for storage vessels that are not subject to a legally and practically enforceable limit in an operating permit or other requirement established under federal, state, local or tribal authority, any vapor from the storage vessel that is recovered and routed to a process through a vapor recovery unit (VRU) designed and operated as specified in 40 C.F.R. § 60.5365a(e)(3) is not required to be included in the determination of VOC potential to emit (PTE) for purposes of determining affected facility status, provided that the owner and operator complies with the following:
  - a. The owner and operator must meet the cover requirements specified in § 60.5411a(b). 40 C.F.R. § 60.5365a(e)(3)(i).
  - b. The owner and operator must meet the closed vent system requirements specified in §§ 60.5411a(c) and (d). 40 C.F.R. § 60.5365a(e)(3)(ii).
  - c. The owner and operator must maintain records that document compliance with the two requirements listed above. 40 C.F.R. § 60.5365a(e)(3)(iii).
  - d. The owner and operator must determine the storage vessel’s PTE within 30 days of the removal of apparatus that recovers and routes vapor to a process, or operation that is inconsistent with 40 C.F.R. § 60.5365a(e)(3)(i) and (ii). 40 C.F.R. § 60.5365a(e)(3)(iv).

**NSPS Subpart OOOOa Storage Vessel Affected Facilities VOC Standards of  
40 C.F.R. § 60.5395a**

16. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities to reduce emissions by 95.0 percent within 60 days after startup. 40 C.F.R. § 60.5395a(a)(2).
17. NSPS Subpart OOOOa requires that if the owner or operator of a storage vessel affected facility uses a control device to reduce VOC emissions from a storage vessel affected facility, the owner or operator must equip the storage vessel with a cover connected to a closed vent system and route emissions to a control device or process that meets the requirements of 40 C.F.R. § 60.5395a(b), specified below:
  - a. The cover shall meet the requirements of 40 C.F.R. § 60.5411a(b);
  - b. The closed vent system shall meet the requirements of 40 C.F.R. §§ 60.5411a(c) and 60.5411a(d); and,
  - c. The control device (that is not a carbon adsorption system) shall meet the requirements of 40 C.F.R. § 60.5412a(d).
18. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities to demonstrate continuous compliance with standards specified in 40 C.F.R. § 60.5415a(e)(3). 40 C.F.R. § 60.5395a(d)(2).

**NSPS Subpart OOOOa Initial Compliance Period of 40 C.F.R. § 60.5410a**

19. NSPS Subpart OOOOa establishes an initial compliance period for each storage affected facility. 40 C.F.R. § 60.5410a.
20. NSPS Subpart OOOOa specifies that the initial compliance period begins on August 2, 2016, or upon initial startup, whichever is later. The period ends no later than one year after the initial startup date or no later than one year after August 2, 2016. 40 C.F.R. § 60.5410a.

**NSPS Subpart OOOOa Cover Requirements of 40 C.F.R. § 60.5411a(b)**

21. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities or storage vessels following the VRU provisions of 40 C.F.R. § 60.5365a(e)(3) to meet the cover requirements of 40 C.F.R. § 60.5411a(b) listed below.
22. The cover and all openings on the cover (e.g., access hatches and pressure relief devices) shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel. 40 C.F.R. § 60.5411a(b)(1).
23. Each cover opening shall be secured in a closed, sealed position whenever material is in the unit, except during times when it is necessary to use an opening as specified below:

- a. To add material to, or remove material from the unit (this includes openings necessary to equalize or balance the internal pressure of the unit following changes in the level of the material in the unit);
  - b. To inspect or sample the material in the unit;
  - c. To inspect, maintain, repair, or replace equipment located inside the unit; or,
  - d. To vent liquids, gases, or fumes from the unit through a closed vent system designed and operated in accordance with the requirements of 40 C.F.R. § 60.5411a(c) and (d). 40 C.F.R. § 60.5411a(b)(2).
24. Each storage vessel thief hatch shall be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated and sealed under normal operating conditions, including such times when working, standing/breathing, and flash emissions may be generated. The gasket material for the hatch must be selected based on composition of the fluid in the storage vessel and weather conditions. 40 C.F.R. § 60.5411a(b)(3).

**NSPS Subpart OOOOa Closed Vent System Requirements of 40 C.F.R. § 60.5411a(c) and (d)**

25. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities or storage vessels following the VRU provisions of 40 C.F.R. § 60.5365a(e)(3) to meet the closed vent system requirements of 40 C.F.R. §§ 60.5411a(c) and (d) listed below.
26. Owners and operators must design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in 40 C.F.R. § 60.5412a(d), or to a process. 40 C.F.R. § 60.5411a(c)(1).
27. Owners and operators must design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual and auditory (OVA) inspections. 40 C.F.R. § 60.5411a(c)(2).
28. Owners and operators must conduct an assessment that the closed vent system is of sufficient design and capacity to ensure that all emissions from the storage vessel are routed to the control device and that the control device is of sufficient design and capacity to accommodate all emissions from the affected facility and have it certified by a qualified professional engineer. 40 C.F.R. § 60.5411a(d).

**NSPS Subpart OOOOa Control Device Requirements of 40 C.F.R. § 60.5412a(d)**

29. NSPS Subparts OOOOa requires owners and operators of storage vessel affected facilities to meet specific requirements listed below for each control device installed to meet the emission reduction standard in 40 C.F.R. § 60.5395a(a)(2):

- a. For each combustion control device, an owner or operator of a storage vessel affected facility must ensure that each enclosed combustion control device is leak free; install and operate a continuous burning pilot flame; operate the combustion control device with no visible emissions; and design and operate the combustion control device in accordance with certain performance requirements set forth in 40 C.F.R. § 60.5412a(d)(1), unless the owner and operator elects to install an alternative control device tested under and operated in accordance with provisions described in 40 C.F.R. § 60.5413a.
- b. For each vapor recovery device or other non-destructive control device, an owner or operator of a storage vessel affected facility must design and operate the device to reduce mass content of VOC by 95 percent. 40 C.F.R. § 60.5412a(d)(2).
- c. Owners and operators of storage vessel affected facilities to design and operate a flare in accordance with the requirements of 40 C.F.R. § 60.18(b). 40 C.F.R. §§ 60.5425a and 60.5412a(d)(3).
- d. Each control device must be in operation at all times when gases, vapors, and fumes are vented from the storage vessel affected facility through the closed vent system to the control device. 40 C.F.R. § 60.5412a(d)(4). 40 C.F.R. § 60.5412a(d).

**NSPS Subpart OOOOa Continuous Compliance Requirements of 40 C.F.R. § 60.5415a(e)**

30. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities that use a control device to meet the emission reduction standard of 40 C.F.R. § 60.5395a(a)(2) to demonstrate continuous compliance with the following requirements specified in 40 C.F.R. § 60.5415a(e):
  - a. Reduce VOC emissions by 95.0 percent as specified in 40 C.F.R. § 60.5395a(a)(2); and,
  - b. Demonstrate continuous compliance with 40 C.F.R. §§ 60.5416a(c) for each cover and closed vent system, and 40 C.F.R. §§ 60.5412a(d) and 60.5417a(h) for each control device.
31. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities that route emissions to a process to meet the emission reduction standard of 40 C.F.R. § 60.5395a(a)(2) to demonstrate continuous compliance with the following requirements specified in 40 C.F.R. § 60.5415a(e).
  - a. Reduce VOC emissions by 95.0 percent as specified in 40 C.F.R. § 60.5395a(a)(2); and,
  - b. Demonstrate continuous compliance with 40 C.F.R. § 60.5416a(c) for each cover and closed vent system, and 40 C.F.R. §§ 60.5411a(c)(2) and (3) for each closed vent system that routes emissions to a process.

**NSPS Subpart OOOOa Continuous Cover and Closed Vent System Inspection and Monitoring Requirements of 40 C.F.R. § 60.5416a(c)**

32. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities that use a control device or route emissions to a process to meet the emission reduction standard in 40 C.F.R. § 60.5395a(a)(2) to comply with the inspection and monitoring requirements for the storage vessel cover and closed vent system listed below. 40 C.F.R. § 60.5416a(c).
33. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities to inspect each closed vent system at least once every calendar month as specified in 40 C.F.R. § 60.5416a(c)(1).
34. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities to inspect each cover at least once every calendar month as specified in 40 C.F.R. § 60.5416a(c)(2).
35. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities to meet the requirements for each bypass device as specified in 40 C.F.R. § 60.5416a(c)(3), except as provided in § 60.5411a(c)(3)(ii).
36. NSPS Subpart OOOOa requires owners and operators to repair a leak or defect as soon as practicable after a leak or defect is detected unless a delay of repair is permitted. 40 C.F.R. §§ 60.5416a(c)(4-5).

**NSPS Subpart OOOOa Continuous Control Device Monitoring Requirements of 40 C.F.R. § 60.5417a(h)**

37. NSPS Subpart OOOOa requires owners and operators of storage vessel affected facilities that installed a control device or route emissions to a process to meet the emission reduction standard in 40 C.F.R. § 60.5395a(a)(2) to comply with the monitoring requirements listed below. 40 C.F.R. § 60.5417a(h).
38. NSPS Subpart OOOOa requires owners and operators to operate each control device following the manufacturer's written operating instructions, procedures, and maintenance schedule to ensure good air pollution controls for minimizing emissions. Records must be made available as specified in 40 C.F.R. § 60.5420a(c)(13). 40 C.F.R. § 60.5417a(h)(3).

**NSPS Subpart OOOOa Notification, Reporting, and Recordkeeping Requirements of 40 C.F.R. § 60.5420a**

39. NSPS Subpart OOOOa establishes notification, reporting, and recordkeeping requirements for affected facilities. 40 C.F.R. § 60.5420a. The relevant provisions to this NOV are specified below, however, other requirements may apply as listed in NSPS OOOOa.

40. NSPS Subpart OOOOa requires owners and operators of affected facilities to submit notifications pursuant to 40 C.F.R. §§ 60.7(a)(1), (3), and (4). If the owner and operator of an affected facility has a storage vessel, they are not required to submit notifications. 40 C.F.R. § 60.5420a(a)(1).
41. NSPS Subpart OOOOa establishes that initial annual reports are due no later than 90 days after the end of the initial compliance period. The initial compliance period begins on August 2, 2016, or upon initial startup, whichever is later, and ends no later than one year after the initial startup date for an affected facility, or no later than one year after August 2, 2016. 40 C.F.R. § 60.5410a. Subsequent reports are due no later than the same date each year as the initial annual report. 40 C.F.R. § 60.5420a(b).
42. NSPS Subpart OOOOa annual reports for affected facilities must contain information including the company name, the US Well ID, the address or location, identification, beginning and ending dates of the reporting period, and certification of truth, accuracy, and completeness. 40 C.F.R. § 60.5420a(b)(1).
43. NSPS Subpart OOOOa annual reports for storage vessel affected facilities must include the identification and location of each storage vessel affected facility constructed, modified, or reconstructed during the reporting period. Annual reports must also include documentation of the VOC emission rate determination, records of deviations, and a statement indicating requirements have been met. Any storage vessel affected facility that is removed from service or returned to service during the reporting period must be noted. 40 C.F.R. § 60.5420a(b)(6).
44. NSPS Subpart OOOOa requires that all reports are submitted to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). The reports must be in the appropriate electronic form and appropriate format in CEDRI. If the reporting form is not available in CEDRI at the time the report is due, the report must be submitted to the Administrator at the appropriate address listed in 40 C.F.R. § 60.4. Once the form has been available for at least 90 calendar days, all subsequent reports must be submitted via CEDRI. The reports must be submitted by the deadlines, regardless of the method in which they are submitted. 40 C.F.R. § 60.5420a(b)(11).
45. All information required to be submitted to the EPA for NSPS Subpart OOOOa must also be submitted to the appropriate state agency to which authority has been delegated. 40 C.F.R. § 60.4(b). NMED was delegated authority for NSPS Subpart OOOOa effective October 12, 2018 for the State of New Mexico. 40 C.F.R. § 60.4(e)(1). See 83 Fed. Reg. 46107 (Sept. 12, 2018).
46. NSPS Subpart OOOOa requires that owners and operators submit the certification signed by the qualified professional engineer according to 40 C.F.R. § 60.5411a(d) for each closed vent system routing to a control device or process. 40 C.F.R. § 60.5420a(b)(12).
47. NSPS Subpart OOOOa requires owners and operators to maintain the records identified as specified in 40 C.F.R. § 60.7(f) and in 40 C.F.R. § 60.5420a(c)(1)-(17). Records must be

maintained either onsite or at the nearest local field office for at least five years. 40 C.F.R. § 60.5420a(c).

#### **New Mexico State Implementation Plan (SIP)**

48. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of the EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such “criteria” pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires the EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare.
49. Pursuant to Sections 108 and 109 of the Act, 42 U.S.C. §§ 7408 and 7409, the EPA has identified sulfur dioxide ( $\text{SO}_2$ ), oxides of nitrogen ( $\text{NO}_x$ ), and ozone, among others, as criteria pollutants, and has promulgated NAAQS for these pollutants. Certain precursors to ozone formation, such as VOC and  $\text{NO}_x$ , are regulated as part of the air quality standards for ozone itself. 40 C.F.R. §§ 50.6 to 50.11.
50. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality either meets or does not meet the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular criteria pollutant is termed an “attainment” area with respect to such pollutant. An area that does not meet the NAAQS for a particular criteria pollutant is termed a “nonattainment” area with respect to such pollutant.
51. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires each state to adopt and submit to the Administrator of the EPA a plan which provides for implementation, maintenance, and enforcement, for each promulgated NAAQS, in each air quality control region (or portion thereof). Each such plan, known as a State Implementation Plan (SIP), must include enforceable emission limitations and other control measures, and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQSs are maintained. Section 110(a)(2)(A) of the Act, 42 U.S.C. § 7410(a)(2)(A). The SIP must also provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile and analyze data on ambient air quality and upon request make such data available to the EPA. Section 110(a)(2)(B) of the Act, 42 U.S.C. § 7410(a)(2)(B).
52. Pursuant to Section 113(a) and (b) of the CAA, 42 U.S.C. § 7413(a) and (b), upon EPA approval, SIP requirements are federally enforceable under Section 113. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated in a SIP, is a requirement of the SIP, and is federally enforceable under Section 113.

53. Pursuant to Section 110 of the CAA, the State of New Mexico adopted regulations that comprise the State Implementation Plan for New Mexico (the NM SIP). The NM SIP regulations as approved by the EPA are set forth in 40 C.F.R. § 52.1620(c).
54. At all times relevant to this Notice, Eddy and Lea Counties, New Mexico, where the relevant facilities owned and operated by Matador are located, have been classified as attainment for all criteria pollutants. However, during the 2016 through 2018 time period, air quality monitors in Lea County and Eddy County measured above 95% of the NAAQS for ozone. Under state law, NMED is required to adopt a plan, including regulations, to control emissions of NOx and VOC to provide for attainment and maintenance of the standard.
55. The NM SIP regulations governing construction permitting of a stationary source are currently codified at § 20.2.72 of the New Mexico Administrative Code (NMAC). These regulations were originally codified in § 702 of the New Mexico Air Quality Control Regulations (AQCRs). AQCR § 702 was included in the NM SIP approved by the EPA on May 31, 1972.
56. In 1996, New Mexico renumbered and reformatted all regulations, including the AQCRs, into the NMAC. Accordingly, the Governor of New Mexico formally submitted a recodification and revision of the NM SIP. The EPA's effective date of the approval the recodification and revisions of the NM SIP was November 25, 1997. These changes included minor revisions to AQCR § 702 and recodification to 20.2.72 NMAC. These changes also included recodification of AQCR § 703.1 to 20.2.73 NMAC. 62 Fed. Reg. 50,514 (Sept. 26, 1997).
57. New Mexico subsequently submitted revisions of 20.2.72 NMAC to the EPA on May 29, 1998, November 6, 1998, April 11, 2002, April 25, 2005, and November 2, 2006, and in a letter from the Secretary of the NMED dated November 7, 2012. The effective date for the EPA's approval of these revisions, incorporating them into the approved NM SIP, was April 10, 2013. 78 Fed. Reg. 15,296 (Mar. 11, 2013).
58. The NM SIP regulations governing notice of intent to construct and emissions inventory requirements are currently codified at 20.2.73 NMAC. These regulations were originally codified in § 703.1 of the AQCRs. AQCR 703.1 was included in the NM SIP approved by the EPA on May 31, 1972.
59. New Mexico also submitted minor revisions of 20.2.73 NMAC on June 24, 2011. The effective date for the EPA's approval of these revisions, incorporating them into the approved NM SIP, was December 27, 2012. 77 Fed. Reg. 70,693. (Nov. 27, 2012)
60. 20.2.72.7 NMAC and 20.2.73.7 NMAC set forth the following definitions for purposes of requirements thereunder:
  - a. "Department" means "the New Mexico environment department (NMED) or its successor agency or authority, as represented by the department secretary or his or her designee."

20.2.2.7(I) NMAC.

- b. "Construction" means "fabrication, erection, installation or relocation of a stationary source, including but not limited to temporary installations and portable stationary sources." 20.2.72.7(I) NMAC or 20.2.73.7(D) NMAC.
- c. "Stationary source" means "any building, structure, equipment, facility, installation (including temporary installations), operation or portable stationary source which emits or may emit any air contaminant." 20.2.72.7(EE) NMAC.
- d. "Potential emission rate" means "the emission rate of a source at its maximum capacity to emit a regulated air contaminant under its physical and operational design, provided any physical or operational limitation on the capacity of the source to emit a regulated air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its physical and operational design only if the limitation or the effect it would have on emissions is enforceable by the department pursuant to the Air Quality Control Act or the federal Act." 20.2.72.7(Y) NMAC or 20.2.73.7(O) NMAC.
- e. "Regulated air contaminant" means "any air contaminant, the emission or ambient concentration of which is regulated pursuant to the New Mexico Air Quality Control Act or the federal act." 20.2.72.7(AA) NMAC or 20.2.73.7(Q) NMAC.
- f. "Air contaminant" means "any airborne substance, including but not limited to, any particulate matter, fly ash, dust, fumes, gas, mist, smoke, vapor, micro-organisms, radioactive material, any combination thereof or any decay or reaction product thereof." 20.2.2.7(C) NMAC.
- g. "Modification" means "any physical change in, or change in the method of operation of, a stationary source which results in an increase in the potential emission rate of any regulated air contaminant emitted by the source or which results in the emission of any regulated air contaminant not previously emitted..." 20.2.72.7(P) NMAC and 20.2.73.7(I) NMAC.

#### **Notice of Intent Requirements of 20.2.73.200 NMAC**

- 61. Pursuant to 20.2.73.200(A)(1-2) NMAC, "any owner or operator intending to construct a new stationary source" or "modify a stationary source which either prior to or following the modification" has a "potential emission rate greater than 10 tons per year or any regulated air contaminant...shall file a notice of intent with the department."
- 62. Pursuant to 20.2.73.200(A)(4) NMAC, "the notice of intent shall be filed prior to the commencement of construction." If a construction permit is required, construction cannot begin before the permit is issued, according to 20.2.72 NMAC. Alternatively, if no permit is required,

construction cannot begin until the department issues a written determination that a permit is not required.

#### **Construction Permit Requirements of 20.2.72.200 NMAC**

63. Pursuant to 20.2.72.200(A) NMAC, construction permits must be obtained from the department as described below.
64. Pursuant to 20.2.72.200(A)(1) NMAC, a construction permit must be obtained by “[a]ny person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard.” All emitted regulated air contaminants with National or New Mexico Ambient Air Quality Standards are subject to permit review if this specified threshold is exceeded for any one regulated air contaminant. Pursuant to 20.2.72.202(C)(2) NMAC, the determinations of applicability “shall take into account all federally enforceable emission limits established for such sources or units under NSPS, NESHAP and other parts of this chapter.”
65. Pursuant to 20.2.72.200(A)(2) NMAC, a construction permit must be obtained by “[a]ny person modifying a stationary source when all of the pollutant emitting activities at the entire facility, either prior to or following the modification, emit a regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard with a potential emission rate greater than 10 pounds per hour or 25 tons per year and the regulated air contaminant is emitted as a result of the modification.” All emitted regulated air contaminants with National or New Mexico Ambient Air Quality Standards are subject to permit review if this specified threshold is exceeded for any one regulated air contaminant. Pursuant to 20.2.72.202(C)(2) NMAC, the determinations of applicability “shall take into account all federally enforceable emission limits established for such sources or units under NSPS, NESHAP and other parts of this chapter.”
66. Pursuant to 20.2.72.200(A)(3) NMAC, a construction permit must be obtained by “[a]ny person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC (New Source Performance Standards) ...,” which includes stationary sources and equipment constructed or modified that is subject to the requirements of NSPS. 20.2.72.200(A)(3) NMAC and 20.2.77.2 NMAC.
67. Pursuant to 20.2.72.200(E), all sources required to obtain a construction permit must file an application for the permit prior to the commencement of construction, modification, or installation. No construction, modification, or installation shall begin prior to the issuance of the permit, regardless of the anticipated commencement date.
68. Pursuant to 20.2.72.202(C)(1)(a) NMAC, any sources or units subject to NSPS shall be exempt from the permitting applicability requirements set forth in 20.2.72.200(A)(3) NMAC if such sources or units “are included in a notice of intent filed under 20.2.73 NMAC (Notice of Intent and Emissions Inventory).” Pursuant to 20.2.73.200(A)(4) NMAC, the Notice of Intent must be

filed prior to the commencement of construction.

69. Pursuant to 20.2.72.202(C)(1)(b) NMAC, any sources or units subject to NSPS shall be exempt from the permitting applicability requirements set forth in 20.2.72.200(A)(3) NMAC if such sources or units “[h]ave met the notification requirements to which they are subject under NSPS.”
70. Pursuant to 20.2.72.203 NMAC, any person seeking a construction permit must file a written application with NMED, following the instructions on the forms furnished by NMED, and the written application must contain the information specified in 20.2.72.203(A)(1)-(15) NMAC.

#### **General Construction Permits of 20.2.72.220 NMAC**

71. Pursuant to 20.2.72.220(A)(1) NMAC, NMED has also issued general construction permits which cover numerous similar sources. A general construction permit provides coverage to registered sources that have similar operations, processes, and emissions, and are subject to the same or substantially similar requirements.
72. Pursuant to 20.2.72.220(C)(1) NMAC, owners and operators of a source required to obtain a construction permit pursuant to 20.2.72.200 NMAC may apply to NMED to register under the terms of the general construction permit as an alternative to obtaining a construction permit under 20.2.72.200 NMAC.
73. Pursuant to 20.2.72.220(C)(2) NMAC, NMED shall review the application and shall grant or deny the registration.
74. Pursuant to 20.2.72.220(C)(3) NMAC, NMED shall only grant registration under a general permit if the application is complete and if “the source meets the terms and conditions of the general permit.”
75. Pursuant to 20.2.72.220(C)(6) NMAC, construction of a source may not commence prior to the receipt of NMED’s written approval of the registration under a general construction permit.
76. Pursuant to 20.2.72.210(D) NMAC, NMED can enforce any term or condition imposed on a permit to the same extent as a regulation.

#### **NMED Air Quality Bureau General Construction Permit for Oil and Gas Facilities**

77. The Air Quality Bureau General Construction Permit for Oil and Gas (“GCP-Oil and Gas” or “Permit”) was issued on April 27, 2018, by NMED’s Air Quality Bureau under 20.2.72.220 NMAC. See GCP-Oil and Gas Condition A100.A.

78. The Permit is a general permit that authorizes an owner or operator to construct, modify, and operate an oil and gas facility under the conditions set forth in the Permit. GCP-Oil and Gas Condition A100.B.
79. All sources which have registered under the Permit and have subsequently been approved by NMED to construct, modify, or operate under the Permit have satisfied the State of New Mexico's requirement for obtaining an air quality permit prior to constructing, modifying, or operating a source of air pollutants according to 20.2.72.200 NMAC. GCP-Oil and Gas Condition A100.C.
80. Sources which NMED has approved registration under the Permit are subject to all of the terms and conditions within the Permit. No source may operate under the Permit without NMED approval of the registration. No source may operate under the Permit unless the source meets all of the requirements set forth in the Permit. GCP-Oil and Gas Condition A100.D.
81. To register under the Permit, owners and operators of sources must fill out a Registration Form. Upon approval by NMED, these facilities must operate as specified in the Registration Form. The Registration Form specifies equipment and emission limits which are federally enforceable and become terms and conditions of the Permit upon approval. GCP-Oil and Gas Condition A100.F.
82. The Permit establishes allowable hourly and annual emission limits in the Registration Form. GCP-Oil and Gas Conditions A106.A and A106.C.
83. Owners and operators shall demonstrate compliance with hourly emission limits for each piece of equipment established in the Registration Form by complying with the specific conditions for the emission unit in the Permit. Owners and operators shall demonstrate compliance with annual emission limits established in the Registration form by complying with the process parameters required for each piece of authorized equipment, as established in the Registration Form. For flares, the permittee shall comply with the requirements in Condition A207, not relevant here. GCP-Oil and Gas Condition A106.C.
84. Owners and operators must construct, modify, and operate facilities in accordance with all of the Permit conditions, which includes all representations made in the Registration Form. As established in 20.2.72.210(D) NMAC, any term or condition imposed by NMED in a permit is enforceable to the same extent as a regulation. GCP-Oil and Gas Condition B101.A
85. According to the Permit, owners and operators of facilities shall demonstrate compliance with the allowable emission limits for tanks established in the Registration Form by the methods listed below:
  - a. limiting the throughput and limiting the average separator pressure to the amounts listed in the Registration Form; and/or,

- b. operating a control device that has been approved by NMED; and/or,
- c. routing the emissions to a process.

GCP- Oil and Gas Condition A205.B.

- 86. According to the Permit, owners and operators of facilities shall monitor and record the monthly total throughput of any hydrocarbon liquid, and the upstream separator pressure once per month. The upstream separator pressure shall be measured at the separator or flashing vessel directly prior to the crude oil or condensate entering the tanks. GCP-Oil and Gas Conditions A205.B and A205.A.
- 87. The Permit establishes monitoring requirements for tank control devices, vapor recovery units, and vapor recovery towers that require monthly inspection for defects that could result in air emissions, including visible cracks, holes, or gaps; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps or other enclosure devices. The permittee shall repair the leak or defect with 30 calendar days in a manner that minimizes emissions to the atmosphere. The permittee shall record inspection results including any repairs that are required. Alternatively, the permittee may implement a program that meets the requirements of NSPS Subpart OOOa, at 40 C.F.R. § 60.5416a, if selected in the Registration Form. GCP-Oil and Gas Conditions A205.B and A209.A.
- 88. The Permit establishes recordkeeping requirements for tank control devices, vapor recovery units, and vapor recovery towers that require the permittee to record the results of the control device and/or vapor unit recovery inspections chronologically, noting any maintenance and repairs that are required. GCP-Oil and Gas Conditions A205.B and A209.A.
- 89. According to the Permit, if owners and operators choose to use an NMED approved control device and/or chooses to route the emissions to a process to demonstrate compliance with the allowable emission limits for tanks, the control device and/or VRU must be operated "as a closed vent system that captures and routes all emissions from tanks back to the process stream or to the control device, and does not vent to the atmosphere." GCP-Oil and Gas Condition A205.B.
- 90. According to the Permit, owners and operators of facilities shall demonstrate compliance with the allowable emission limits for VRUs by operating the VRU as a closed vent system that captures and routes all VOC emissions from units listed in the Registration Form back to the process stream or to a sales pipeline, and which does not vent to the atmosphere. GCP-Oil and Gas Condition A209.A.(1).

**Clean Air Act Title V Permit Requirements**

- 91. Title V of the CAA Amendments of 1990 requires the EPA to promulgate regulations that require and specify the minimum elements of State operating permit programs. The EPA published a

final rule establishing a comprehensive State air quality permitting system consistent with the requirements of Title V of the CAA on July 21, 1992. The standards and procedures by which the EPA approves, oversees, and withdraws approval of state and tribal Title V operating permits programs are codified at 40 C.F.R. Part 70.

92. Title V of the CAA requires States to develop and submit to the EPA programs for issuing operating permits to major stationary sources and sources covered by an NSPS under Section 111 of the CAA. 42 U.S.C. § 7661a(a). However, according to 40 C.F.R. § 70.3(b)(2), in the case of non-major sources subject to a standard or other requirement under either Section 111 or Section 112 of the CAA after July 21, 1992, the Administrator will determine whether to exempt any or all such applicable sources from the requirement to obtain an operating permit at the time that the new standard is promulgated. Pursuant to 40 C.F.R. §§ 60.5370(c) or 60.5370a(c), non-major sources subject to NSPS Subparts OOOO or OOOOa, are exempt from the requirement to obtain an operating permit.
93. Section 501 of the CAA, 42 U.S.C. § 7661, defines a major source as any stationary source (or group of stationary sources located within a contiguous area and under common control) that is either:
  - a. a "major source" as defined in section 112 of the Act, 42 U.S.C §7412, i.e., "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants"; or
  - b. a "major stationary source" as defined in section 302 of the Act, 42 U.S.C § 7602, as "any stationary facility or source of air pollutants which directly emits, or has a potential to emit 100 tons per year or more of any air pollutant."
94. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), the implementing regulations at 40 C.F.R § 70.7(b) provide that, after the effective date of the State Title V permit program, no person may violate any requirement of a Title V permit or operate a source subject to a Title V permit except in compliance with a Title V permit.
95. The EPA promulgated full approval of the New Mexico Title V program, effective on January 27, 1997. 61 Fed. Reg. 60,032 (Nov. 26, 1996).
96. Section 503(c) of the Act, 42 U.S.C. § 7661b(c), sets forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application.
97. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions

necessary to assure compliance with applicable requirements, including those contained in a SIP.

98. The New Mexico regulations governing the Title V permitting program are codified at Title 20 of the New Mexico Administrative Code (20 NMAC), Chapter 2 on Air Quality, Part 70. *See* 20.2.70 NMAC.
99. 20.2.70 NMAC defines a “major source” in a manner equivalent to Section 501 of the CAA, 42 U.S.C. § 7661.
100. Pursuant to 20.2.70.200(B) NMAC, any source subject to NSPS must obtain an operating permit from the NMED. However, pursuant to 20.2.70.202(B) NMAC, non-major sources, including those sources subject to NSPS, are exempt from the obligation to obtain a Part 70 (20.2.70 NMAC) permit until such time that the Administrator completes a rulemaking that requires such sources to obtain operating permits. Pursuant to 40 C.F.R § 60.5370a(c), non-major sources subject to NSPS Subpart OOOOa, are exempt from the requirement to obtain an operating permit.
101. Pursuant to 20.2.70.201 NMAC, a source that is required to obtain an operating permit may operate after the time that is required to submit a timely and complete application only if:
  - a. “the source is in compliance with the permit issued by the department or EPA”; or
  - b. “a timely permit (including permit renewal) application has been submitted [...].” 20.2.70.201(A) NMAC.

102. Pursuant to 20.2.70.300 NMAC, each source required to obtain an operating permit must submit a timely and complete application within twelve months after the source commences operation.

### **III. Factual Background**

103. Matador owns and/or operates the oil and natural gas production facilities listed in TABLE 2 and TABLE 3.

#### **Notice of Intent (NOI) Status**

104. On or around the NOI application dates, Matador submitted NOI applications to NMED to notify NMED of its intent to construct or modify facilities listed in TABLE 2.
105. In each of the NOI applications, Matador represented that the facility or the storage tanks (i.e., storage vessels) were constructed after September 18, 2015.

106. In each of the NOI applications, Matador represented the number of oil storage tanks (OTs) and produced water storage tanks (PWTs) constructed or to be constructed at a facility, and determined the uncontrolled and controlled VOC emissions from the OTs and PWTs as summarized in TABLE 2.
107. In each of the NOI applications, Matador represented that all VOC emissions from the storage tanks are captured and routed to a process through a VRU or to a flare. Matador calculated the controlled VOC emissions from the storage tanks based on 100% capture of the uncontrolled emissions and routing the captured emissions to either a VRU, operating 95% of the time, or to a flare with a destruction and removal efficiency (DRE) of greater than or equal to 95%.
108. According to the NOI application for the Zach McCormick Fed Com 226H Facility, the combined facility allowable (or potential) emission rate for carbon monoxide is 24.36 tpy.
109. On or around the dates of the NOI approval letters, NMED approved the NOIs based on the submitted applications and assigned NOI numbers to each facility as summarized in TABLE 2. For each of the facilities listed, the NOI referenced in TABLE 2 was effective through the date of the facility inspection.
110. An NOI application and a subsequent response from NMED are not operating permits or construction permits, and do not provide legally and practically enforceable emissions limitations. The NOI is intended to provide notice to NMED, identify each emissions source that will be constructed, and provide the potential emissions rates in accordance with 20.2.73.200.A. NMAC.
111. For the facilities listed in TABLE 2, Matador represented in the NOI applications, with the exception of Miss Sue 202H Facility, that the potential emissions rate of VOC for each oil tank is equal to or greater than 6 tpy when the oil tank emissions routed to a VRU are included in the Matador's emissions determination (*i.e.*, oil tank uncontrolled emissions listed in TABLE 2 are reduced by 95%), and therefore, each oil tank is a storage vessel affected facility subject to the requirements of NSPS Subpart OOOOa.

#### **Construction Permit Status**

112. On or around the General Construction Oil and Gas (GCP-Oil and Gas) Registration Form dates, Matador applied to NMED to register the oil and natural gas facilities listed in TABLE 3 under the terms of the GCP-Oil and Gas.
113. In each of the Registration Forms, Matador represented that the facility or storage tanks were constructed after September 18, 2015.
114. In each of the Registration Forms, Matador represented the number of OTs and PWTs at each facility and determined the uncontrolled VOC emissions, as well as yearly (tpy) and hourly (lbs/hr) allowable emissions limits for the OTs and PWTs as summarized in TABLE 3.

115. In each of the Registration Forms, Matador represented that all VOC emissions from the storage tanks and VRT (where constructed) are captured and routed to a process through a VRU or to a flare. Matador calculated the allowable hourly and yearly VOC emission limits of the storage tanks in the Registration Forms based on 100% capture of uncontrolled emissions that are routed to either a VRU, operating 95% of the time, or to a flare, with a DRE of 95%, during periods that the VRU is non-operational.
116. On or around the date of the Registration Form approval letters listed in TABLE 3, NMED granted registration of the facilities under the GCP-Oil and Gas based on the information Matador represented in the Registration Form and assigned GCP-O&G numbers as summarized in TABLE 3. For each of the facilities listed, the construction permit and permit applications referenced in TABLE 3 were effective through the date of the facility inspection.

TABLE 2: SUMMARY OF NOI APPLICATION AND NOI APPROVAL

Facility name	NOI application date	# of OTs	Uncontrolled OT emissions (tpy VOC per tank)	Controlled OT emissions (tpy VOC per tank)	# of PWTs	Uncontrolled PWT emissions (tpy VOC per tank)	Controlled PWT emissions (tpy VOC per tank) <sup>1</sup>	Date of NOI approval letter	NOI number
Anne Com 15 Facility	December 7, 2017	5	938.16	-	5	15.64	-	January 12, 2018	7605
	February 19, 2016	3	697.10	-	3	25.00	-	March 9, 2016	6829
Mallon 27 Fed Com No1H Facility	December 11, 2017	4	734.46	-	4	4.01	-	January 18, 2018	7608
	January 2, 2018	4	614.64	-	4	4.65	-	January 31, 2018	7625
Mallon 27 Fed Com No2H Facility	January 11, 2018	4	614.64	-	4	4.65	-	February 16, 2018	7637
	March 28, 2018	5	10.25	-	5	13.05	-	May 4, 2018	7779
Tiger 14 Facility	November 26, 2018	9	326.55	-	10	9.70	-	December 13, 2018	6771M3
	March 20, 2018	3	426.18	-	3	47.28	-	April 13, 2018	7733
Tom Matthews 223H Facility	November 26, 2018	6	670.77	-	4	30.18	-	December 12, 2018	7582M1
	January 5, 2018	3	756.90	-	3	30.96	-	February 27, 2018	7654
Fed Com 226H Facility									

<sup>1</sup> A “-” symbol indicates that emissions of this pollutant are not expected, as described in the NOI applications. For each facility, Matador represented in the NOI applications that all, or 100%, of the storage vessel emissions (and vapors) are captured and routed to a process through a VRU or to a flare.

TABLE 3: SUMMARY OF GCP-OIL AND GAS REGISTRATION FORMS AND REGISTRATION APPROVAL

Facility name	GCP Oil and Gas Registration Form Date	# of OTs	Uncontrollable OT emissions (tpy VOC per tank)	OT VOC Allowable Emissions Limits (lbs/hour and tpy per tank) <sup>1</sup>	# of PWTs	Uncontrollable PWT emissions (tpy VOC per tank)	PWT VOC Allowable Emissions Limits (lbs/hour and tpy per tank) <sup>1</sup>	Date of Registration Form approval letter	GCP-O&G number
B Banker Facility	September 25, 2018	4	336.47	-	4	15.70	-	November 21, 2018	7367M1
Charlie Sweeney Facility	December 19, 2018	6	435.84	-	5	24.45	-	January 25, 2019	7347M2
Coleman Facility	December 19, 2018	12	436.24	-	6	23.90	-	January 25, 2019	7707M1
Dr. Scrivner Facility	November 30, 2018	6	659.00	-	4	22.85	-	December 19, 2018	7825M1
Guitar 10 Facility	November 19, 2018	5	1076.76	-	5	30.76	-	December 20, 2018	6501M3
Janie Conner Facility	July 7, 2018	7	1241.17	-	7	38.03	-	July 19, 2018	7929
Stebbins 19 Fed Com No123H Facility	January 2, 2019	3	189	-	3	4.65	-	February 21, 2019	7811M1
Stebbins 20 Fed Facility	December 19, 2019	5	532.62	-	5	16.56	-	February 15, 2019	7585
Stebbins 20/19 Fed Facility	October 11, 2018	5	123.38	-	5	3.89	-	November 19, 2018	7792M1

Warren Facility	December 17, 2018	8	9.66	-	4	1.35	-	January 17, 2019	7580M1
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<sup>1</sup>A “” symbol indicates that emissions of this pollutant are not expected, as represented in Table 2 of the Registration Form. For each facility, Matador represented in the Registration Form that all, or 100%, of the storage vessel emissions (and vapors) are captured and routed to a process through a VRU or to a flare.

## **Inspection Findings**

117. On April 16-18, 2019, inspectors Christopher Williams (of EPA), Journey Nolan (of NMED), and Kerry Fortner (of NMOCD) inspected the oil and natural gas production facilities listed above in TABLE 1, which include the facilities listed in TABLES 2 and 3 (Matador Facilities).
118. At each of the Matador Facilities, inspectors documented the equipment onsite and noted the configuration of the vapor control system(s). Inspectors made OVA observations and used optical gas imaging (OGI), a photo-ionization detector (PID), and a digital camera to document the condition of the equipment and to detect any emissions from the facility equipment.
119. Inspectors noted that each of the Matador Facilities were similar, consisting of the following equipment or components: one or more horizontally drilled wells that produce a mixture of oil, water, and gas; a horizontal three-phase separator dedicated to each well; one or more heater treaters; several 400 barrel (bbl) oil and produced water storage vessels (*i.e.*, storage tanks) rated for 16 ounces per square inch (oz/in<sup>2</sup>) pressure; one to two VRUs; a backup combustion device; and one or more gas compressors. Some of the Matador Facilities are equipped with vapor recovery towers (VRT) located just upstream of the storage tank battery.
120. Inspectors noted that each of the Matador Facilities were configured so that the vapors from the storage vessels are collected in the tank headspace and routed through an interconnected closed vent system to a VRU and/or combustion control device (*e.g.*, low pressure flare or enclosed combustion device (ECD)). Each storage vessel and closed vent system was equipped with pressure relief devices (PRDs), *i.e.*, thief hatches located on the tank covers and one or more pressure relief valves (PRVs) located on the closed vent system which were referred to by company personnel as “Enardos” or “Enardo valves,” which are designed to fully open and emit vapors when the pressure in the tanks and closed vent system exceed the equipment set-point of 14 ounces oz/in<sup>2</sup>. All storage vessels are fixed roof storage vessels and share a common closed vent system.
121. Additionally, inspectors observed a VRT located upstream of the storage tanks at Anne Com 15 Facility, Coleman Facility, Dr. Scrivner Facility, Miss Sue 202H Facility, Stebbins 20/19 Fed Facility, and Tom Walters Facility. Vapors separated at the VRT were sent to a VRU through a closed vent system.
122. At Stebbins 19 Fed Com No123H Facility and Norris Thornton-1 Facility, inspectors were told by Matador personnel that the two Facilities were not receiving well extracted fluids during the inspections. Matador personnel explained that Stebbins 19 Fed Com No123H Facility was shut-in because of equipment malfunction and Norris Thornton-1 Facility produces little to no liquid daily.
123. At each of the Matador Facilities, inspectors confirmed with Matador personnel that the VRU was operating during the inspections, with the exception of Stebbins 19 Fed Com No123H Facility which did not have a VRU.

124. At each of the Matador Facilities, with the exception of Tom Matthews Facility, Zach McCormick Facility, B Banker Facility, and Mallon 27 Federal Com No3H Facility, inspectors observed that the pilot of the low-pressure flare was lit and there was no visible flame coming out of the flare stack.
125. At the Tom Matthews Facility, inspectors observed a visible flame coming out of the flare stack.
126. At the Zach McCormick Facility, inspectors observed that the pilot of the low-pressure flare was not lit and saw OGI visible emissions coming out of the flare stack. Matador personnel said that storage tank vapors were being sent to the VRU and not to the flare.
127. At the B Banker Facility, inspectors observed that the pilot was not able to stay lit; with OGI visible emissions coming out of the flare stack. Matador personnel said that storage tank vapors were being sent to the VRU and not to the flare.
128. At the Mallon 27 Federal Com No3H Facility, inspectors did not observe a low-pressure flare at the facility but noted that an ECD was connected via a closed vent system to the storage vessels, and the ECD pilot was lit.
129. At each of the Matador Facilities that were operating or producing during the inspections, with the exception of the Tom Matthews Facility, inspectors observed significant VOC emissions coming out of the PRDs (*i.e.*, thief hatches and PRVs) on the storage vessel covers and closed vent systems. Approximately, 66% (or 23/35) of the inspected PRVs on the closed vent systems, and 33% (or 60/181) of the inspected storage tank thief hatches were emitting VOCs directly to the atmosphere. The PRD emissions were continuous and detectable by OVA observations, PID, and OGI.
130. At each of the Matador Facilities, observations made during the inspection about the condition of the emitting PRDs and the associated equipment, including the build-up of debris or residue on the equipment, the presence of corrosion, and/or condensation forming around the equipment, indicate that venting was not isolated and had been occurring for a considerable amount of time.
131. At the Matador Facilities listed below, inspectors observed the operation of the following equipment which was not listed in the NOI application or in the GCP-Oil and Gas Registration Form: 1 VRT at Stebbins 20/19 Fed Facility; 1 separator at Stebbins 20 Fed Facility; 1 VRT at Tom Walters Facility; 1 VRU compressor engine and 1 large compressor engine at Miss Sue 202H Facility; 1 heater treater, 1 VRU compressor engine, 2 oil storage vessels, 2 produced water storage vessels at Dr. K Facility; 1 VRU compressor engine and 1 large compressor engine at Janie Conner Facility; 3 heater treaters, 1 VRU compressor engine, 1 large compressor engine, 3 oil storage vessels, and 3 produced water storage vessels at Zach McCormick Fed Com 226H Facility; 1 heater treater at Tom Matthews 223H Facility; and 1 enclosed combustion device at Mallon 27 Federal Com No3H Facility.

#### **Emissions Determination for Facilities with an NOI**

132. Matador's oil and produced water storage vessels at the facilities listed in TABLE 2 are not subject to a legally and practically enforceable limit in an operating permit or other requirement relevant to potential VOC emissions established under federal, state, local or tribal authority (apart from storage vessel requirements established under NSPS Subpart OOOa). Therefore, emissions from the oil and produced water storage vessels that are recovered and routed to a process through a VRU do not need to be included in the emission determination required by 40 C.F.R § 60.5365a(e), provided that the storage vessels' closed vent system connected to the VRU is designed and operated in compliance with the cover requirements of 40 C.F.R. § 60.5411a(b), and the closed vent system requirements of 40 C.F.R. §§ 60.5411a(c) and (d).
133. Based upon inspection findings, Matador is not in compliance with the storage vessel cover requirements of 40 C.F.R. § 60.5411a(b) at the facilities listed TABLE 2 because the covers and/or openings on the storage vessel covers (e.g., access hatches, sampling ports, PRDs, or gauge wells) do not form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessels as required by 40 C.F.R. § 60.5411a(b)(1), the storage vessel cover openings are not secured as required by 40 C.F.R. § 60.5411a(b)(2), and/or the storage vessel thief hatches are not maintained and operated to ensure that the lid remains sealed and seated under normal operating conditions, including such times when working, standing/breathing, and flash emissions are generated, as required by 40 C.F.R. § 60.5411a(b)(3).
134. Based upon inspection findings, Matador is not in compliance with the closed vent system requirements of 40 C.F.R. § 60.5411a(c) at the facilities listed in TABLE 2 because the closed vent systems are not designed to route all gases, vapors, and fumes emitted from the material in the storage vessels to a control device or to a process as required by 40 C.F.R. § 60.5411a(c)(1), and the closed vent systems are not designed and operated with no detectable emissions, as determined using OVA inspections as required by 40 C.F.R. § 60.5411a(c)(2).
135. Since Matador is not in compliance with the cover and closed vent system requirements of 40 C.F.R. §§ 60.5411a(b) and (c) at the facilities listed in TABLE 2, all emissions from each oil and produced water storage vessel, including those emissions recovered by a VRU or routed to a control device, must be included when determining potential emissions, as required by 40 C.F.R. § 60.5365a(e).
136. Therefore, each facility listed in TABLE 2 with an oil or produced water storage vessel that has potential VOC emissions (or uncontrolled emissions represented in the NOI) equal to or greater than 6 tpy is a storage vessel affected facility under NSPS Subpart OOOa and subject to various requirements, including the VOC standards for storage vessel affected facilities at 40 C.F.R. § 60.5395a(a)(2).
137. According to the uncontrolled emissions represented in the NOI listed in TABLE 2, each oil and produced water storage vessel, with the exception of the produced water storage vessels at Mallon 27 Fed Com No1H Facility, Mallon 27 Fed Com No2H Facility, and Mallon 27 Fed Com

No3H Facility, show that routing emissions to a control device or process is necessary to meet the emissions reduction requirements of 40 C.F.R. § 60.5395a(a)(2).

#### IV. Violations

**COUNT 1: Violation of 40 C.F.R. §§ 60.5395a(b)(1) and (d)(2), and 40 C.F.R. § 60.5415a(e)(3)(ii)(C), for failure to comply with the storage vessel requirements for storage vessel covers at § 60.5411a(b), and closed vent systems that are designed and operated to route all storage vessel emissions to a control device or process at §§ 60.5411a(c)(1) and (c)(2).**

138. As discussed in the NOI Status and Emissions Determination for Facilities with an NOI sections above, the oil and produced water storage vessels listed in TABLE 2, with the exception of the produced water storage vessels at Mallon 27 Fed Com No1H Facility, Mallon 27 Fed Com No2H Facility, and Mallon 27 Fed Com No3H Facility are storage vessel affected facilities under NSPS Subpart OOOOa, and therefore at those storage vessels, Matador must comply with the NSPS Subpart OOOOa storage vessel affected facility VOC standards of 40 C.F.R. § 60.5395a.
139. In accordance with 40 C.F.R. § 60.5395a(b)(1), the storage vessels are subject to the control requirements for storage vessel covers at 40 C.F.R. § 60.5411a(b), and the control requirements for storage vessel closed vent systems at 40 C.F.R. §§ 60.5411a(c), because Matador routes the oil and produced water emissions to a control device or process to comply with the emissions reduction requirements of 40 C.F.R. § 60.5395a(a)(2).
140. In accordance with 40 C.F.R. § 60.5395a(d)(2), Matador must demonstrate continuous compliance for the storage vessels under 40 C.F.R. 60.5415a(e)(3), specifically 40 C.F.R. § 60.5415a(e)(3)(ii)(C), by complying with the control requirements for storage vessel closed vent systems at 40 C.F.R. § 60.5411a(c)(2), because Matador routes oil and produced water storage vessel emissions to a process to comply with the emissions reduction requirements of 40 C.F.R. § 60.5395a(a)(2).
141. As discussed in the Inspection Findings and in the Emissions Determination for Facilities with an NOI sections above, Matador failed to comply with the storage vessel cover requirement of 40 C.F.R. § 60.5411a(b) and storage vessel closed vent system requirements of 40 C.F.R. §§ 60.5411a(c)(1) and (2) for the storage vessels, which is a violation of the VOC standard for storage vessel affected facilities at 40 C.F.R. § 60.5395a(b)(1).
142. As discussed in the Inspection Findings and in the Emissions Determination for Facilities with an NOI sections above, Matador failed to comply with the storage vessel closed vent system requirement of 40 C.F.R. §§ 60.5411a(c)(2) for the storage vessels, which is a violation of the VOC standards for storage vessel affected facilities at 40 C.F.R. § 60.5395a(d)(2), and the continuous compliance requirements of 40 C.F.R. § 60.5415a(e)(3)(ii)(C).
143. Matador failed to comply with the storage vessel cover requirements of 40 C.F.R. § 60.5411a(b) for the storage vessels because the covers and/or openings on the storage vessel covers (*e.g.*, access hatches, sampling ports, PRDs, or gauge wells) do not form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessels, as

required by 40 C.F.R. § 60.5411a(b)(1), the storage vessel cover openings are not secured as required by 40 C.F.R. § 60.5411a(b)(2), and/or the storage vessel thief hatches are not maintained and operated to ensure that the lid remains sealed and seated under normal operating conditions, including such times when working, standing/breathing, and flash emissions are generated as required by 40 C.F.R. § 60.5411a(b)(3).

144. Matador failed to comply with the closed vent system requirements of 40 C.F.R. § 60.5411a(c) for the storage vessels because the closed vent systems are not designed to route all gases, vapors, and fumes emitted from the material in the storage vessels to a control device or to a process, as required by 40 C.F.R. § 60.5411a(c)(1), and the closed vent systems are not designed and operated with no detectable emissions, as determined using OVA inspections, as required by 40 C.F.R. § 60.5411a(c)(2).

**COUNT 2: Violation of 40 C.F.R. §§ 60.5420a(b)(1) and (6) for failure to submit required annual reports for each storage vessel affected facility.**

145. As discussed in the NOI Status and Emissions Determination for Facilities with an NOI sections above, the storage vessels listed in TABLE 2, with the exception of the produced water storage vessels at Mallon 27 Fed Com No1H Facility, Mallon 27 Fed Com No2H Facility, and Mallon 27 Fed Com No3H Facility, are storage vessel affected facilities under NSPS Subpart OOOOa, and therefore at those storage vessels, Matador must comply with the NSPS Subpart OOOOa Notification, Reporting, and Recordkeeping Requirements of 40 C.F.R. § 60.5420a.
146. Matador failed to submit any annual reports containing information on each storage vessel affected facility. Failing to submit the annual reports within 90 days after the initial compliance period ended, pursuant to the compliance period of 40 C.F.R. §§ 60.5410a, and annually thereafter, are violations of 40 C.F.R. §§ 60.5420a(b)(1) and (6). The annual reports are past due for each facility listed in TABLE 2.

**COUNT 3: Violation of 20.2.73.200(A) NMAC for failure to submit a NOI prior to the start of construction of oil and natural gas production equipment.**

147. As discussed in the Inspection Findings at the following facilities, inspectors observed the operation of the following oil and natural gas production equipment (*i.e.*, stationary sources) not listed in the NOI applications: 1 VRT at Tom Walters Facility; 1 VRU compressor engine and 1 large compressor engine at Miss Sue 202H Facility; 1 heater treater, 1 VRU compressor engine, 2 oil storage vessels, 2 produced water storage vessels at Dr. K Facility; 3 heater treaters, 1 VRU compressor engine, 1 large compressor engine, 3 oil storage vessels, and 3 produced water storage vessels at Zach McCormick Fed Com 226H Facility; 1 heater treater at Tom Matthews 223H Facility; and 1 enclosed combustion device at Mallon 27 Federal Com No3H Facility;
148. Therefore, Matador violated 20.2.73.200(A) NMAC for failing to submit an NOI prior to constructing stationary sources at the Tom Walters Facility, Miss Sue 202H Facility, Dr. K Facility, Zach McCormick Fed Com 226H Facility, Tom Matthews 223H Facility, and Mallon 27 Federal Com No3H Facility.

**COUNT 4: Violation of 20.2.72.200(A)(1) NMAC for failure to obtain an NMED construction permit for the Zach McCormick Fed Com 226H Facility.**

149. For the Zach McCormick Fed Com 226H Facility, the potential emission rate for CO exceeds 25 tpy, when emissions from all stationary sources at the facility are considered, including 3 heater treaters, 1 VRU compressor engine, and 1 large compressor engine, which were observed during the facility inspection but were not included in the NOI that was effective at the time of the inspection. Therefore, Matador is required to have obtained a construction permit for this facility.
150. As of April 18, 2019, Matador had not submitted a construction permit application for the Zach McCormick Fed Com 226H Facility.
151. Therefore, Matador violated 20.2.72.200(A)(1) NMAC for failing to obtain a construction permit for the Zach McCormick Fed Com 226H Facility, which has a potential emission rate of CO greater than 25 tpy.

**COUNT 5: Violation of 20.2.70.200(A) and (B) and 20.2.70.201(A) NMAC for failure to obtain an NMED operating permit for major sources subject to 40 C.F.R. Part 60 Subpart OOOa.**

152. As discussed in the Emissions Determination for Facilities with an NOI section above, the potential emission rates of VOC for the oil storage vessels for the facilities listed in TABLE 2 are greater than 100 tpy and are "major sources," as defined under Section 501 of the CAA, 42 U.S.C. § 7661, and 20.2.70 NMAC.
153. Pursuant to 20.2.70.200 NMAC, owners and operators must submit an application for an operating permit within twelve months of the commencement of operation for major stationary sources with potential emission rates equal to or greater than 100 tpy of any regulated air contaminant, including VOC.
154. As of April 18, 2019, Matador had not submitted operating permit applications for the Facilities listed in TABLE 2.
155. Therefore, Matador violated 20.2.70.200(A) and (B), and 20.2.70.201(A) NMAC for the facilities listed in Table 2 for failing to submit a timely application for an operating permit for major stationary sources with potential emission rates equal to or greater than 100 tpy of any regulated air contaminant.

**COUNT 6: Violation of 20.2.72.210(D) NMAC and Conditions A100.F., B101.A., A205.B. and A209.A.(1) set forth in the GCP-Oil and Gas for failure to operate the VRU as a closed vent system that captures and routes all emissions from tanks back to a process stream or to a control device, and does not vent emissions directly to the atmosphere.**

156. As discussed in the Construction Permit Status section above, Matador represented in the Registration Form that all VOC emissions from the storage tanks and VRTs (where constructed) are captured and routed to a process through a VRU, or to a flare.

157. As discussed in the Inspection Findings section above, inspectors observed emissions coming out of the facility pressure relief device (PRDs) on tank covers and on closed vent system(s) connected to the VRU(s), as well as the odor, staining, corrosion, and condensation around the PRDs.
158. Therefore, at the facilities listed in TABLE 3, the storage tanks and closed vent system(s) connected to VRU(s) vent emissions to atmosphere; and are not designed and operated as a closed vent system(s) that captures and routes all emissions from tanks back to a process stream or to a control device; which is a violation of GCP-Oil and Gas Conditions A205.B. and A209.A.(1) .

**COUNT 7: Violation of 20.2.72.210(D) NMAC and conditions B101.A. and A100.F. set forth in the GCP-Oil and Gas for failure to design and operate the facility as represented and specified in the Registration Form.**

159. As discussed in the Construction Permit Status section above, Matador represented in the Registration Form that all VOC emissions from the storage tanks and VRTs (where constructed) are captured and routed to a process through a VRU or to a flare.
160. As discussed in the Construction Permit Status section above, Matador represented in the Registration Form a 100% capture efficiency of uncontrolled emissions from the storage tanks and VRTs (where constructed) in the emissions calculations; the VRU(s) is represented to operate 95% of the time, and a flare with a DRE of 95% is represented to be in use when the VRU(s) is non-operational.
161. As discussed in the Inspection Findings section above, at the facilities listed in TABLE 3, inspectors observed emissions coming out of the facility pressure relief device (PRDs) on storage tank covers and closed vent system(s) connected to a VRU(s), as well as the odor, staining, corrosion, and condensation around the PRDs which indicate that the venting was not isolated and had been occurring for a considerable amount of time.
162. Therefore, at the facilities listed in TABLE 3, Matador failed to design and operate its control systems for 100% capture efficiency because VOC emissions from the storage tanks and VRTs (where applicable) are emitted to atmosphere; and all emissions from the storage tanks are not captured and routed to a process through a VRU or to a flare as represented in the Registration Form; which is a violation of GCP-Oil and Gas Conditions B101.A. and A100.F.
163. As discussed in the Inspection Findings section above, inspectors observed at the following facilities the operation of oil and natural gas production equipment (which are stationary sources or contribute to emissions from a stationary source) not represented in the Registration Form: 1 VRT at Stebbins 20/19 Fed Facility; 1 separator at Stebbins 20 Fed Facility, and 1 VRU compressor engine and 1 large compressor engine at Janie Conner Facility; which is a violation of GCP-Oil and Gas Conditions B101.A. and A100.F.

**COUNT 8: Violation of 20.2.72.210(D) NMAC and conditions B101.A., A100.F. and A106.C. set forth in the GCP-Oil and Gas for failure to comply with the oil and produced water storage tank hourly and yearly allowable emission limits for VOC.**

164. As discussed in the Construction Permit Status section above, Matador represented hourly and yearly allowable emission limits as “emissions of [VOC] are not expected” for the oil and produced water storage tanks. Matador represented that all emissions from the storage tanks are captured and routed to a process through a VRU, or to a flare.
165. As discussed in the Inspection Findings section above, inspectors detected VOC emissions, using OIG, PID, and OVA observations, coming out of the facility pressure relief device (PRDs) on storage tank covers and closed vent system(s) connected to the VRU(s), as well as the odor, staining, corrosion, and condensation around the PRDs which indicate that the venting was not isolated and had been occurring for a considerable amount of time;
166. Therefore, at the facilities listed in TABLE 3, Matador exceeded the hourly and yearly oil and produced water storage tank allowable emissions limits for VOC listed in the Registration Form; which is a violation of GCP-Oil and Gas Conditions A106.C.

#### V. Enforcement Provisions

167. NMED’s investigation into this matter is continuing. The above information represents specific violations that NMED believes, at this point, are sufficiently supported by evidence to warrant the allegations in this NOV. NMED may find additional violations as the investigation continues.
168. NMSA § 74-2-12 and 12.1, provides NMED with several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing a statutorily authorized penalty, or bringing a judicial civil action.
169. A person who violates a provision of the Air Quality Control Act or a regulation, including NSPS regulations, permit condition or emergency order adopted or issued pursuant to that act may be assessed a civil penalty not to exceed fifteen thousand dollars (\$15,000) for each day during any portion of which a violation occurs.
170. NMED may seek, and a United States district court may order, equitable remedies to further address these alleged violations. NMSA § 74-2-12.A(2).

11/4/19

Date

Liz Bisbey-Kuehn

Air Quality Bureau Chief

NMED

